

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In re:

ROBERT H. MASON, INC.,

BKY 04-32177

Debtor.

Chapter 7 Case

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**NOTICE OF HEARING AND APPLICATION FOR ALLOWANCE  
OF FEES AND EXPENSES FOR SPECIAL COUNSEL TO DEBTOR**

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TO: The entities specified in Local Rules 2016-1 and 9013-3.

1. Fabyanske, Westra & Hart, P.A. ("Applicant"), attorneys employed as special counsel for Robert H. Mason, Inc. ("Debtor"), moves the Court, the Honorable Robert J. Kishel presiding, for the relief requested below and gives notice of hearing herewith.

2. The Court will hold a hearing on this Application at 2:00 p.m. on September 20, 2004, or as soon thereafter as counsel may be heard, in Courtroom No. 228B, United States Bankruptcy Court, 200 U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota.

3. Any response to this Application must be filed and delivered not later than September 9, 2004, which is seven days prior to the time set for hearing (excluding Saturdays, Sundays and holidays), or filed and served by mail not later than September 3, 2004, which is ten days before the date set for the hearing (excluding Saturdays, Sundays and holidays).

**UNLESS A RESPONSE OPPOSING THE APPLICATION IS TIMELY FILED, THE  
COURT MAY GRANT THE APPLICATION WITHOUT A HEARING.**

4. The Court has jurisdiction over this Application under 28 U.S.C. §§ 157 and 1334 and Fed. R. Bankr. P. 5005. This is a core proceeding. The petition commencing this bankruptcy case was filed on April 8, 2004 ("Filing Date"). The case is now pending in this Court.

5. This Application arises under 11 U.S.C. §§ 330. This Application is filed under Fed. R. Bankr. P. 2016 and Local Rule 2016-1. Applicant requests allowance of compensation for professional services rendered and for reimbursement of expenses.

6. By Order dated April 20, 2004, Applicant was authorized to render services as special counsel to Debtor in this case. A copy of that Order is attached as Exhibit A.

7. At the time Applicant was authorized to render services as special counsel to Debtor on April 20, 2004, Applicant held \$4,681.00 as a retainer for Debtor. On June 28, 2004, the \$4,591.60 of the retainer was applied against a portion of an invoice for Applicant's services, leaving a balance of \$89.40 in the retainer.

8. To the best of Applicant's knowledge, there are allowed administrative expenses, other than Applicant's fees and expenses requested herein, as follows:

| <b><u>Identity of Professional</u></b> | <b><u>Date of Order</u></b> | <b><u>Amount of Fees &amp; Expenses Allowed</u></b> |
|--|-----------------------------|---|
| Henson & Efron, P.A.                   | July 27, 2004               | \$35,573.64   |

To the best of Applicant's knowledge, other professionals may be asserting claims for allowance of fees and expenses.

9. Applicant has not made any prior request for allowance of fees and expenses.

10. Applicant has incurred fees for services rendered to Debtor and has incurred costs for expenses to be reimbursed by Debtor and/or for costs advanced on behalf of Debtor.

11. From April 1, 2004 through July 31, 2004 ("Application Period"), Applicant has incurred fees and expenses each month or partial month as follows:

| <u>Month</u> | <u>Fees</u>        | <u>Expenses</u>   | <u>Total</u>       |
|--------------|--------------------|-------------------|--------------------|
| April 2004   | \$9,219.00         | \$615.54          | \$9,834.54         |
| May 2004     | \$15,687.50        | \$572.55          | \$16,260.05        |
| June 2004    | \$2,547.50         | \$214.37          | \$2,761.87         |
| July 2004    | \$500.00           | \$56.60           | \$556.60           |
| <b>Total</b> | <b>\$27,954.00</b> | <b>\$1,459.06</b> | <b>\$29,413.06</b> |

Applicant requests allowance in the total amount of \$29,413.06 for fees and expenses as set forth above ("Requested Fees and Expenses").

12. During the Application Period, Applicant rendered professional services in the following categories as further described below:

**Sale of Real Estate & Other Bankruptcy Case Issues (Matter No. 82465.001) \$ 8,600.04**

Services in this category relate primarily to the sale of the real estate, including gathering information from bank and recorders' offices pertaining to liens, analysis of title issues, and evaluation of tax issues related to the sale of the property. To a very small degree, the services in this category also pertain to other bankruptcy case issues, including providing documents and information pertaining to Debtor and Debtor's schedules, and providing information to the Chapter 7 Trustee's counsel concerning the various pieces of litigation affecting Debtor and the propriety of a motion to lift the stay on one of those pieces of litigation. (See attached Exhibit B-1).

**Contribution Action (Matter No. 82465.002) \$ 8,897.22**

Services in this category relate to the contribution action by Debtor against other parties involved in the design and construction of the Johnsons' home (Court File No. PD 03-6734). These services include initial review and analysis of the contribution claims; venue and consolidation analysis; review of background documents pertaining to the contribution claims; analysis of defenses raised by the parties; analysis of collateral estoppel; review and analysis of experts' reports concerning the cause of damage to the Johnsons' home; and updating Chapter 7 Trustees' counsel concerning the status of the lawsuit. Expenses incurred in this category include copies of pleadings furnished to Chapter 7 Trustees' counsel. (See attached Exhibit B-2).

**Insurance Coverage Action (Matter No. 82465.003) \$ 11,395.80**

Services in this category relate to the declaratory judgment action commenced by Mid Western Indemnity Insurance Company and Tower Insurance Company to resolve whether various of

Debtor's insurers are responsible for indemnifying Debtor against the damages awarded to the Johnsons (Court File No. CT04-5107). These services include analysis of arguments pertaining to lifting of stay; review and analysis of claims, cross-claims and defenses of the various parties; review and analysis of underlying insurance policies; and conferences with judge and opposing counsel. Expenses incurred in this category include copies of pleadings furnished to Chapter 7 Trustees' counsel. (See attached Exhibit B-3).

**Judgment Collection Action (Matter No. 82465.004) \$ 520.00**

Services in this category relate to the action commenced by the Johnsons to collect their judgment against Debtor (Court File No. 03-19979), and consist of discussions with the Johnsons' counsel, and research concerning, discovery matters pertaining to execution on the Johnsons' judgment against Debtor. (See attached Exhibit B-4).

13. Details of the services, including fees and expenses, are set forth by category and by timekeeper in Exhibits B-1, B-2, B-3 and B-4. The hourly rates for the various timekeepers were as follows: Dean B. Thomson--\$290/hour; Gary C. Eidson--\$290/hour; Paul L. Ratelle--\$290/hour; Thomas J. Tucci--\$265/hour; Stephen A. Melcher--\$250/hour; Gordon P. Heinson--\$210/hour; Theresa A. Peterson--\$180/hour; and Karen B. Loewecke--\$95/hour. The Applicant charges \$0.20 per page for photocopying.

14. The Debtor's Chapter 11 case was converted to a case under Chapter 7.

15. To the best of Applicant's knowledge, Debtor made all payments on post petition obligations as they became due and was not in arrears on any of its post petition obligations at the time the case converted.

16. To the best of Applicant's knowledge, all quarterly fees have been paid as required to the United States Trustee and all monthly operating reports have been filed by the Debtor.

17. Pursuant to the procedure provided for in Instructions 8(c) of the Instructions for Filing a Chapter 11 Case, adopted by the Court effective January 27, 2003, the Debtor made certain payments to Applicant during the Chapter 11 case through application of \$4,591.60 in the retainer, leaving a current retainer balance of \$89.40. If the entire retainer were to be applied

against the total Requested Fees and Expenses of \$29,413.06, there would remain an unpaid balance of \$24,732.06.

18. The Debtor has received copies of the invoices underlying this Application.

19. All services for which compensation is requested by Applicant were performed for and on behalf of the Debtor and not on behalf of any committee, creditor or other person.

20. The Requested Fees and Expenses constitute reasonable compensation for actual and necessary services rendered by Applicant based on the nature, the extent and the value of such services, the time spent on such services and the cost of comparable services other than in a case under Title 11, and constitute reasonable expenses incurred on behalf of the Debtor.

21. Applicant has not entered into any agreement, express or implied, with any other party in interest including debtors, any creditor, receiver, trustee or any representative of any of them, or with any attorneys for such party in interest in the proceedings, for the purpose of fixing fees or other compensation to be paid to such party in interest in the proceedings for services rendered or expenses incurred in connection therewith from the assets of the estate in excess of the compensation allowed by law.

22. This Application has been provided to the Debtor for its review.

**WHEREFORE**, Applicant respectfully requests that the Court enter its Order:

1. Allowing compensation to Fabyanske, Westra & Hart, P.A. in the amount of \$27,954.00 and reimbursement of costs in the amount of \$1,459.06, for a total allowed amount of \$29,413.06;
2. Approving Fabyanske, Westra & Hart, P.A.'s prior application of \$4,591.60 in the retainer and authorizing Fabyanske, Westra & Hart, P.A. to apply the remaining

\$89.40 it is holding in its retainer in payment of the allowed fees and expenses allowed hereunder; and

3. Authorizing the Trustee to disburse to Fabyanske, Westra & Hart, P.A., \$24,732.06 in payment of the remaining unpaid balance of the fees and expenses allowed Fabyanske, Westra & Hart, P.A. hereunder in accordance with any interim or final account and distribution of the estate; and
4. Granting any other relief the Court deems just and proper.

Dated: August 30, 2004

**FABYANSKE, WESTRA & HART, P.A.**

/s/ Stephen A. Melcher

Stephen A. Melcher (#177015)  
800 LaSalle Avenue, Suite 1900  
Minneapolis, MN 55402  
(612) 338-0115

**VERIFICATION**

I, Stephen A. Melcher, of Fabyanske, Westra & Hart, P.A., the Applicant named in the foregoing Notice of Hearing and Application, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information, and belief.

Dated: August 30, 2004

/s/ Stephen A. Melcher

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In re:

Robert H. Mason, Inc.,  
Debtor.

Case No. BKY 04-32177

Chapter 11 Case

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**ORDER AUTHORIZING DEBTOR TO EMPLOY SPECIAL COUNSEL**

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This case came before the Court on the Application of Debtor to Employ Special Counsel. Based on the Application, the Unsworn Declaration of Stephen A. Melcher, and the proceedings herein,

IT IS HEREBY ORDERED:

1. Debtor may employ the law firm of Fabyanske, Westra & Hart, P.A. ("Fabyanske") under general retainer and upon the basis set forth in the Application, subject to the limitations of 11 U.S.C. §328.
2. Fabyanske is authorized to file fee applications at ninety (90) day intervals following entry of this order.
3. The Debtor is authorized to pay monthly invoices of Fabyanske under the procedures in Instruction No. 8(c) of the Instructions for Filing a Chapter 11 Case, adopted by this Court effective January 27, 2003.

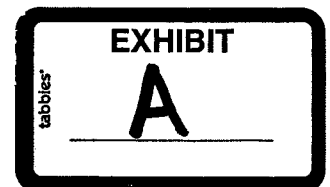
**BY THE COURT:**

1E1 *Gregory F. Kishel*

Gregory F. Kishel  
Chief U. S. Bankruptcy Judge

Dated: April 20, 2004

NOTICE OF ELECTRONIC ENTRY AND  
FILING ORDER OR JUDGMENT  
Filed and Docket Entry made on 04/20/04  
Lori Vosejka, Acting Clerk, By lja



# Fabyanske, Westra & Hart, PA

Suite 1900  
800 LaSalle Avenue  
Minneapolis, MN 55402

Telephone (612) 338-0115

June 28, 2004

Robert H. Mason, Inc.

PO Box 1308  
Minnetonka, MN 55345

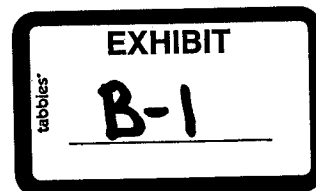
**Statement No. 54518**  
Fed Tax ID No. 41-1409512  
Matter No. 82465-001  
Billing Attny DBT

Re: Sale of Real Estate

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## For Professional Services Rendered Through April 30, 2004 As Follows:

|          |     |   | Hours |
|----------|-----|---|-------|
| 4/1/2004 | GCE | Office conferences regarding strategy and tactics;<br>various telephone calls regarding same;<br>correspondence regarding tax issues.                       | 1.50  |
| 4/1/2004 | GPH | Conference with Tom Tucci regarding S Corp COD<br>income exclusion; Research same.  | 1.50  |
| 4/1/2004 | TAP | Call to Tom Mason re Main Street property.  | 0.50  |
| 4/1/2004 | PLR | Conference with Steve Melcher regarding bankruptcy<br>counsel, liquidation strategies   | 0.65  |
| 4/1/2004 | TJT | Conference Mr. Edison; Conference Mr. Heinson;<br>Review tax issues on S-corp<br>bankruptcy/liquidation/gain related matters.                               | 1.00  |
| 4/2/2004 | SAM | Conference with bankruptcy counsel, Jeanie Mason<br>and Tom Mason re status and strategy.   | 0.75  |
| 4/2/2004 | TAP | Review documents copied during document<br>production; letter to Dave Sand enclosing documents.   | 1.00  |
| 4/2/2004 | TAP | Conversation with G. Steinke (bankruptcy paralegal) re<br>documents needed for petition and corporate status;<br>letter to G. Steinke forwarding documents. | 0.50  |
| 4/2/2004 | PLR | Conference with Gary Eidson and SAM regarding<br>bankruptcy issue and filing  | 1.00  |
| 4/5/2004 | TAP | Conversation with Tom Mason re retainer agreement.  | 0.25  |
| 4/8/2004 | TAP | Letter to Tom Mason re bank statements; research<br>property information on-line; conversation with<br>Hennepin County re torrens and abstract property.    | 1.75  |





Statement No. 54518

Matter No. 82465-001

Re: Sale of Real Estate

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|           |     |   |      |
|-----------|-----|---|------|
| 4/8/2004  | DBT | Conference with Bill Kamp, Theresa Peterson, Paul Ratelle and client.   | 2.00 |
| 4/9/2004  | TAP | Conversations with Karen Loewecke and Dean Thomson re division of Mason property between abstract and torrens.  | 0.50 |
| 4/9/2004  | DBT | Conference re: torrens/abstract; conference with Kampf.   | 0.50 |
| 4/12/2004 | DBT | Call with Tom Mason; conference with Steve Melcher; call with Kampf.  | 0.75 |
| 4/13/2004 | GCE | Telephone call with Mr. Olson; office conference with Mr. Thomson.  | 0.25 |
| 4/13/2004 | KBL | Conference with Gary Eidson and call to Tom Mason re legal description of property, related work.   | 0.20 |
| 4/13/2004 | TAP | Respond to voice mail message from J. Nessett re purchase agreement and phone calls to Tom Mason re bank statements.  | 0.25 |
| 4/13/2004 | DBT | Conference with Gary Eidson, Steve Melcher, Bill Kampf and Gene O.  | 3.00 |
| 4/14/2004 | GCE | Meeting with Messrs. Kampf, Thomson and Olson regarding strategy and tactics.   | 1.00 |
| 4/14/2004 | KBL | Work related to obtaining title commitment and copy of survey; related calls to Tom McManus and James P. Hill, Inc; deliver survey to Gary Eidson and Dean Thomson in meeting with Mr. Kampf. | 1.20 |
| 4/14/2004 | TAP | Letter to Tom Mason re bank statements.   | 0.25 |
| 4/14/2004 | DBT | Call with Kampf and Steve Melcher.  | 0.75 |
| 4/21/2004 | DBT | Conference with Steve Melcher regarding sale and settlement.  | 0.75 |
| 4/28/2004 | TAP | Call to Joel Nasset and Gary Eidson re correct legal description; conversation with Karen Loewecke re title commitment; review survey.  | 0.75 |
| 4/28/2004 | DBT | Conference with Tom Mason.  | 0.25 |
| 4/29/2004 | TAP | Conversation with T. McManus at Guaranty Title re satisfaction of mortgage; conversation with P. Duncan at Wells Fargo re same.   | 0.50 |

Statement No. 54518

Matter No. 82465-001

Re: Sale of Real Estate

|                 |     |  |                 |
|-----------------|-----|--|-----------------|
| 4/30/2004       | GCE | Various telephone calls regarding closing.   | 0.50            |
| 4/30/2004       | SAM | Telephone conference with bankruptcy counsel re documents required for sale of property; telephone conference with title company re documentation for sale of property; telephone conference with client re documentation for sale of property; assisted in preparing documents for sale of property [.5 hrs. not billed]. | 2.50            |
| Total Services: |     |  | <u>6,391.50</u> |

**For All Additional Charges As Follows:**

|                               |               |
|-------------------------------|---------------|
| Hard Cost Photocopies         | 84.37         |
| Federal Express / UPS         | 12.82         |
| Photocopies from Copy Counter | 435.60        |
| Messenger Fees                | 61.00         |
| Lexis Charges                 | 21.75         |
| Total Additional Charges:     | <u>615.54</u> |

|                               |                        |
|-------------------------------|------------------------|
| <b>Total Current Billing:</b> | <u><b>7,007.04</b></u> |
| Previous Balance Due:         | -4,591.60              |
| Total Now Due:                | <u>2,415.44</u>        |

Trust Balance: 89.40

# Fabyanske, Westra & Hart, PA

Suite 1900  
800 LaSalle Avenue  
Minneapolis, MN 55402

Telephone (612) 338-0115

June 28, 2004

Robert H. Mason, Inc.

PO Box 1308  
Minnetonka, MN 55345

**Statement No. 54519**  
Fed Tax ID No. 41-1409512  
Matter No. 82465-001  
Billing Attny DBT

Re: Sale of Real Estate

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## For Professional Services Rendered Through May 31, 2004 As Follows:

|                 |     |  | Hours         |
|-----------------|-----|--|---------------|
| 5/3/2004        | TAP | Return phone call to Joel Nessel re financial documents to be provided to U.S. Trustee; compile documents; e-mail correspondence with Joel Nessel. | 1.50          |
| 5/3/2004        | DBT | Conference with Steve Melcher.   | 0.25          |
| 5/11/2004       | TAP | Conversation with Dean Thomson and Steve Melcher re status of claims and documents to provide to bankruptcy counsel.                               | 0.50          |
| 5/13/2004       | TAP | Letter to Anderson and Grinnell forwarding insurance policies; conversation with R. Anderson re case citation.                                     | 0.50          |
| Total Services: |     |  | <u>522.50</u> |

## For All Additional Charges As Follows:

|                               |               |
|-------------------------------|---------------|
| Messenger Fees                | 21.00         |
| Filing Fees / Recording Fees  | 25.30         |
| Hard Cost Photocopies         | 179.66        |
| Lexis Charges                 | 21.39         |
| Photocopies from Copy Counter | 1.00          |
| Summons & Services            | 9.00          |
| Total Additional Charges:     | <u>257.35</u> |

Fabyanske, Westra & Hart, PA

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Statement No. 54519

Matter No. 82465-001

Re: Sale of Real Estate

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|                        |          |
|------------------------|----------|
| Total Current Billing: | 779.85   |
| Previous Balance Due:  | 2,415.44 |
| Total Now Due:         | 3,195.29 |

Trust Balance: 89.40

**Fabyanske, Westra & Hart, PA**

Suite 1900  
800 LaSalle Avenue  
Minneapolis, MN 55402

Telephone (612) 338-0115

July 31, 2004

Robert H. Mason, Inc.

PO Box 1308  
Minnetonka, MN 55345

**Statement No. 54302**

Fed Tax ID No. 41-1409512

Matter No. 82465-001

Billing Attyny DBT

Re: Sale of Real Estate

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**For Professional Services Rendered Through June 30, 2004 As Follows:**

|           |     |  | Hours |
|-----------|-----|--|-------|
| 6/23/2004 | SAM | Responded to trustee's counsel's inquiry re interplay between declaratory judgment action and contribution action, other homeowner's claims as well as brief analysis re insurer's lift-stay motion [.75 hrs. not billed]. | 1.00  |

Total Services: 250.00

**For All Additional Charges As Follows:**

Messenger Fees 39.00

Filing Fees / Recording Fees 24.15

Total Additional Charges: 63.15

Fabyanske, Westra & Hart, PA

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Statement No. 54302

Matter No. 82465-001

Re: Sale of Real Estate

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|                               |                 |
|-------------------------------|-----------------|
| <b>Total Current Billing:</b> | <b>313.15</b>   |
| Previous Balance Due:         | 3,195.29        |
| Total Now Due:                | <b>3,508.44</b> |

Trust Balance: 89.40

**Fabyanske, Westra & Hart, PA**

Suite 1900  
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Minneapolis, MN 55402

Telephone (612) 338-0115

August 19, 2004

Robert H. Mason, Inc.

PO Box 1308  
Minnetonka, MN 55345

**Statement No. 54515**

Fed Tax ID No. 41-1409512

Matter No. 82465-001

Billing Attny DBT

Re: Sale of Real Estate

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**For Professional Services Rendered Through July 31, 2004 As Follows:**

|           |     |   |
|-----------|-----|---|
| 7/14/2004 | SAM | At request of trustee, reviewed and revised brief in opposition to Midwestern's lift-stay motion. |
|-----------|-----|---|

Hours  
2.00

Total Services: 500.00

**Total Current Billing: 500.00**

Previous Balance Due: 3,508.44

Total Now Due: 4,008.44

Trust Balance: 89.40

**Fabyanske, Westra & Hart, PA**

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June 28, 2004

Robert H. Mason, Inc.

PO Box 1308  
Minnetonka, MN 55345

**Statement No. 54520**

Fed Tax ID No. 41-1409512

Matter No. 82465-002

Billing Attny DBT

Re: Contribution Action

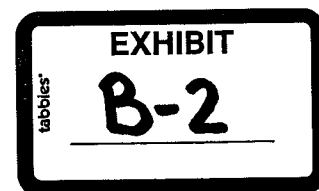
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**For Professional Services Rendered Through April 30, 2004 As Follows:**

|                 |     |  | Hours           |
|-----------------|-----|--|-----------------|
| 4/1/2004        | SAM | Continued developing strategy for prosecution of claims.                   | 1.50            |
| 4/2/2004        | SAM | Continued review and analysis of contribution claims.                      | 3.50            |
| 4/29/2004       | DBT | Conference with Kampf and Steve Melcher regarding venue and consolidation. | 1.50            |
| Total Services: |     |  | <u>1,685.00</u> |

**Total Current Billing:** 1,685.00  
Previous Balance Due: 0.00  
Total Now Due: 1,685.00

Trust Balance: 0.00





# Fabyanske, Westra & Hart, PA

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Minneapolis, MN 55402

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June 28, 2004

Robert H. Mason, Inc.

PO Box 1308  
Minnetonka, MN 55345

**Statement No. 54521**

Fed Tax ID No. 41-1409512

Matter No. 82465-002

Billing Attny DBT

Re: Contribution Action

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## For Professional Services Rendered Through May 31, 2004 As Follows:

|                 |     |  | Hours           |
|-----------------|-----|--|-----------------|
| 5/14/2004       | SAM | Began reviewing Mason's documents.   | 4.75            |
| 5/17/2004       | SAM | Continued reviewing Mason's documents; began researching defenses raised in answers. | 5.25            |
| 5/17/2004       | DBT | Conference with Steve Melcher regarding collateral estoppel regarding A/E.           | 0.25            |
| 5/18/2004       | SAM | Continued researching defendant's various defense claims.                            | 4.25            |
| 5/20/2004       | SAM | Continued reviewing Mason's documents.   | 1.00            |
| 5/21/2004       | SAM | Continued researching defendants' various defense theories.                          | 3.25            |
| Total Services: |     |  | <u>4,697.50</u> |

## For All Additional Charges As Follows:

Photocopies from Copy Counter

154.40

Total Additional Charges: 154.40

Fabyanske, Westra & Hart, PA

Page: 2

Statement No. 54521

Matter No. 82465-002

Re: Contribution Action

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|                        |          |
|------------------------|----------|
| Total Current Billing: | 4,851.90 |
| Previous Balance Due:  | 1,685.00 |
| Total Now Due:         | 6,536.90 |

Trust Balance: 0.00

# Fabyanske, Westra & Hart, PA

Suite 1900  
800 LaSalle Avenue  
Minneapolis, MN 55402

Telephone (612) 338-0115

July 31, 2004

Robert H. Mason, Inc.

PO Box 1308  
Minnetonka, MN 55345

**Statement No. 54303**

Fed Tax ID No. 41-1409512

Matter No. 82465-002

Billing Attny DBT

Re: Contribution Action

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## For Professional Services Rendered Through June 30, 2004 As Follows:

|                 |     |  | Hours           |
|-----------------|-----|--|-----------------|
| 6/1/2004        | SAM | Reviewed expert reports re problems with windows, stucco, ventilation, insulation and roof construction; continued reviewing Mason's documents.                                    | 3.50            |
| 6/1/2004        | DBT | Conference with Kampf and Grinnell regarding indemnity and contribution action.  | 1.00            |
| 6/2/2004        | SAM | Continued reviewing Mason's documents; appeared and described nature and status of contribution and insurance actions at hearing on Johnson's motion to convert case to Chapter 7. | 2.50            |
| 6/11/2004       | DBT | Conference with S. Kruz and T. Nolan and Steve Melcher regarding status of case.   | 1.00            |
| 6/23/2004       | DBT | Conference with Steve Melcher regarding reply to trustee's inquiry.  | 0.25            |
| Total Services: |     |  | <u>2,152.50</u> |

## For All Additional Charges As Follows:

|                               |               |
|-------------------------------|---------------|
| Messenger Fees                | 71.00         |
| Lexis Charges                 | 64.22         |
| Photocopies from Copy Counter | 16.00         |
| Total Additional Charges:     | <u>151.22</u> |

Fabyanske, Westra & Hart, PA

Page: 2

Statement No. 54303

Matter No. 82465-002

Re: Contribution Action

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|                        |          |
|------------------------|----------|
| Total Current Billing: | 2,303.72 |
| Previous Balance Due:  | 6,536.90 |
| Total Now Due:         | 8,840.62 |

Trust Balance: 0.00

**Fabyanske, Westra & Hart, PA**

Suite 1900  
800 LaSalle Avenue  
Minneapolis, MN 55402

Telephone (612) 338-0115

August 19, 2004

Robert H. Mason, Inc.

PO Box 1308  
Minnetonka, MN 55345

**Statement No. 54517**

Fed Tax ID No. 41-1409512

Matter No. 82465-002

Billing Attny DBT

Re: Contribution Action

**For All Additional Charges As Follows:**

Photocopies from Copy Counter

56.60

Total Additional Charges: 56.60

**Total Current Billing:** 56.60

Previous Balance Due: 8,840.62

Total Now Due: 8,897.22

Trust Balance: 0.00

**Fabyanske, Westra & Hart, PA**

Suite 1900  
800 LaSalle Avenue  
Minneapolis, MN 55402

Telephone (612) 338-0115

June 28, 2004

Robert H. Mason, Inc.

PO Box 1308  
Minnetonka, MN 55345

**Statement No. 54522**

Fed Tax ID No. 41-1409512

Matter No. 82465-003

Billing Attny DBT

Re: Insurance Coverage Action

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**For Professional Services Rendered Through April 30, 2004 As Follows:**

|           |     |  | Hours |
|-----------|-----|--|-------|
| 4/30/2004 | SAM | Reviewed letter from Midwestern's attorney re relief from stay; reviewed court's order for status conference; telephone conference with Midwestern's attorney; telephone conference with CNA's attorney re relief from stay. | 0.75  |
| 4/30/2004 | DBT | Conference with Kampf and Steve Melcher; calls to Catron.  | 1.50  |

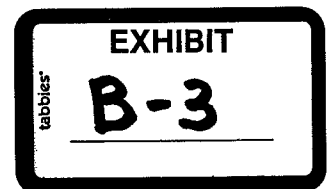
Total Services: 622.50

**Total Current Billing:** 622.50

Previous Balance Due: 0.00

Total Now Due: 622.50

Trust Balance: 0.00



# Fabyanske, Westra & Hart, PA

Suite 1900  
800 LaSalle Avenue  
Minneapolis, MN 55402

Telephone (612) 338-0115

June 28, 2004

Robert H. Mason, Inc.

PO Box 1308  
Minnetonka, MN 55345

**Statement No. 54523**

Fed Tax ID No. 41-1409512

Matter No. 82465-003

Billing Attny DBT

Re: Insurance Coverage Action

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## For Professional Services Rendered Through May 31, 2004 As Follows:

|           |     |   | Hours |
|-----------|-----|---|-------|
| 5/1/2004  | SAM | Reviewed claims, counter-claims and cross-claims; reviewed defenses raised in answer; assembled and began reviewing implicated insurance policies [.5 hrs not billed].  | 7.75  |
| 5/4/2004  | SAM | Research re collateral estoppel effect of judgment in coverage action [1.0 hrs not billed].   | 3.50  |
| 5/5/2004  | SAM | Continued research re collateral estoppel effect of judgment in coverage actions; began developing litigation strategy for coverage action; telephone conference with MidWestern's attorney re request to lift stay; [.5 hrs not billed]. | 2.75  |
| 5/6/2004  | DBT | E-mails with Kampf; conference with Paul Ratelle.   | 1.25  |
| 5/7/2004  | DBT | Conference with Bill Kampf and Paul Ratelle.  | 0.50  |
| 5/10/2004 | SAM | Reviewed CNA's answer to complaint and to Johnson's cross-claim; completed review of insurance policies [.5 hrs not billed].  | 7.50  |
| 5/11/2004 | SAM | Began researching insurers defenses.  | 2.75  |
| 5/11/2004 | DBT | Meeting with Kampf, Steve Melcher and Theresa Peterson regarding coverage.  | 3.00  |
| 5/12/2004 | SAM | Continued researching insurers' defenses.   | 5.50  |
| 5/13/2004 | SAM | Prepared for status conference; participated in status conference; post-conference discussion with counsel for all parties concerning relief from stay and possible settlement conference.  | 1.50  |

Statement No. 54523

Matter No. 82465-003

Re: Insurance Coverage Action

|                 |     |   |                  |
|-----------------|-----|---|------------------|
| 5/13/2004       | DBT | Conference with Steve Melcher regarding scheduling conference on insurance claim.   | 0.50             |
| 5/14/2004       | DBT | Conference with T. Mason; review Briggs memo regarding insurance coverage.  | 0.50             |
| 5/17/2004       | DBT | Conference with Steve Melcher regarding insurance coverage.   | 0.25             |
| 5/19/2004       | SAM | Began researching Johnson's claim of "ownership" of insurance policies.   | 0.25             |
| 5/20/2004       | SAM | Completed research of Johnson's claim of "ownership" of insurance policy; letter to bankruptcy counsel re response to Johnson's claim of ownership of insurance policies. | 2.25             |
| 5/20/2004       | DBT | Conference with Steve Melcher regarding pursuit of insurance proceeds and lifting of stay.  | 0.50             |
| 5/27/2004       | DBT | Conference with Bill Kampf and T. Monson.   | 0.50             |
| Total Services: |     |   | <u>10,467.50</u> |

**For All Additional Charges As Follows:**

Photocopies from Copy Counter

160.80

Total Additional Charges: 160.80**Total Current Billing:** 10,628.30Previous Balance Due: 622.50Total Now Due: 11,250.80

Trust Balance: 0.00



# Fabyanske, Westra & Hart, PA

Suite 1900  
800 LaSalle Avenue  
Minneapolis, MN 55402

Telephone (612) 338-0115

July 31, 2004

Robert H. Mason, Inc.

PO Box 1308  
Minnetonka, MN 55345

**Statement No. 54304**

Fed Tax ID No. 41-1409512

Matter No. 82465-003

Billing Attny DBT

Re: Insurance Coverage Action

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## For Professional Services Rendered Through June 30, 2004 As Follows:

|                 |     |   | Hours         |
|-----------------|-----|---|---------------|
| 6/2/2004        | DBT | Conference with Kampf, Olson and Steve Melcher. | 0.50          |
| Total Services: |     |   | <u>145.00</u> |

|                               |                         |
|-------------------------------|-------------------------|
| <b>Total Current Billing:</b> | <u><b>145.00</b></u>    |
| Previous Balance Due:         | 11,250.80               |
| <b>Total Now Due:</b>         | <u><b>11,395.80</b></u> |

Trust Balance: 0.00

# Fabyanske, Westra & Hart, PA

Suite 1900  
800 LaSalle Avenue  
Minneapolis, MN 55402

Telephone (612) 338-0115

June 28, 2004

Robert H. Mason, Inc.

PO Box 1308  
Minnetonka, MN 55345

**Statement No. 53094**

Fed Tax ID No. 41-1409512

Matter No. 82465-004

Billing Attny DBT

Re: Judgment Collection Action

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## For Professional Services Rendered Through May 31, 2004 As Follows:

|                        |     |   | Hours         |
|------------------------|-----|---|---------------|
| 4/1/2004               | SAM | Telephone conference with Dave Sand re collection action. | 1.00          |
| 4/1/2004               | TAP | Research re discovery in aid of execution.                | 1.50          |
| Total Services:        |     |   | <u>520.00</u> |
| Total Current Billing: |     |   | <u>520.00</u> |
| Previous Balance Due:  |     |   | 0.00          |
| Total Now Due:         |     |   | <u>520.00</u> |

Trust Balance: 0.00



UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In re:

ROBERT H. MASON, INC.,

BKY 04-32177

Debtor.

Chapter 7 Case

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**ORDER ALLOWING FEES**

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This case came before the Court on the Application for Allowance of Fees and Expenses, filed by Fabyanske, Westra & Hart, P.A., special counsel for the Debtor. Appearances, if any, were noted on the record. Based on the application and the file, record and proceedings herein,

**IT IS ORDERED:**

1. Fabyanske, Westra & Hart, P.A. is allowed compensation in the amount of \$27,954.00 and reimbursement of expenses in the amount of \$1,459.06, for a total allowed amount of \$29,413.06.

2. Fabyanske, Westra & Hart, P.A.'s prior application of \$4,591.60 in the retainer is approved and Fabyanske, Westra & Hart, P.A. is authorized to apply the remaining \$89.40 it is holding in its retainer in payment of the allowed fees and expenses.

3. The Trustee is authorized to disburse to Fabyanske, Westra & Hart, P.A., \$24,732.06 in payment of the remaining unpaid balance of the fees and expenses allowed Fabyanske, Westra & Hart, P.A. hereunder in accordance with any interim or final account and distribution of the estate.

**BY THE COURT:**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Robert J. Kishel  
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In re:

ROBERT H. MASON, INC.,

BKY 04-32177

Debtor.

Chapter 7 Case

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**PROOF OF SERVICE**

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Denise Bihner states under penalty of perjury that she is an employee of Fabyanske, Westra & Hart, P.A., and in the course of said employment she served

- (1) Notice of Hearing and Application for Allowance of Fees and Expenses for Attorney for Debtor with exhibits;**
- (2) Proposed Order Allowing Fees; and**
- (3) Proof of Services**

on the entities named below or as specified by enclosing true and correct copies of same in an envelope, properly addressed and postage prepaid, and depositing same in the United States mail.

See attached list

Dated: August 30, 2004

/s/ Denise Bihner

United States Trustee  
300 South Fourth Street  
1015 U.S. Courthouse  
Minneapolis, MN 55415

U.S. Attorney  
300 South Fourth Street #600  
Minneapolis, MN 55415

Internal Revenue Service  
Stop 5700  
316 North Robert Street  
St. Paul, MN 55101

District Counsel of IRS  
175 East Fifth Street #650  
St. Paul, MN 55101

MN Dept of Revenue  
Bankruptcy Section  
PO Box 64447  
St. Paul MN 55164-0447

Tony and Carolyn Johnson  
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Minneapolis, MN 55402

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Ravich, Meyer, Kirkman, McGrath  
80 South Eighth Street, Suite 4545  
Minneapolis, MN 55402

Alan Bachman  
c/o David Hammargren  
7301 Ohms Lane, Ste 360  
Minneapolis, MN 55439

Hennepin County  
A-600 Government Center  
Minneapolis, MN 55402

RJF Agencies, Inc.  
14601 - 27th Avenue N, Ste 104  
Plymouth, MN 55447

Xcel Energy  
PO Box 8477  
Minneapolis, MN 55484

Centerpoint Energy  
800 LaSalle Ave, Bky Clk  
Minneapolis, MN 55402

City of Minnetonka  
14600 Minnetonka Blvd  
Minnetonka, MN 55345

Fleet Management  
PO Box 9010  
Des Moines, IA 50368

First Minnetonka City Bank  
14550 Excelsior Blvd  
Minnetonka, MN 55345

William I. Kampf, Esq.  
Henson & Efron, P.A.  
220 South Sixth Street, Suite 1800  
Minneapolis, MN 55402-4503

Tony and Carolyn Johnson  
c/o Richard D. Anderson, Esq.  
Briggs & Morgan, P.A.  
80 South Eighth Street, Suite 2200  
Minneapolis, MN 55402

ZB Companies, Inc.  
c/o Stephen Yoch  
225 S 6th St, Suite 4200  
Minneapolis, MN 55402

Mason, Thomas  
901 4th Street N  
Hopkins, MN 55343

Stephen Grinnell  
Gray Plant Mooty et al  
80 S 8th Street, #500  
Minneapolis MN 55402

Nauni Jo Manty  
Rider Bennett  
333 S 7th Street #2000  
Minneapolis MN 55402

Froehling Anderson Plowman  
5720 Green Circle Dr  
Minnetonka MN 55343

Northern States Power  
1518 Chestnut Ave N  
Minneapolis MN 55403

Securities Exch Comm  
Bankruptcy Section  
175 W Jackson Blve #900  
Chicago IL 60661

State of Minnesota  
Dept Manpower Services  
390 N Robert St  
St Paul MN 55101

Hennepin County Sheriff  
Hennepin County Courthouse  
Minneapolis MN 55415

Sandra & Doug Ziemer  
15102 Boulder Point Rd  
Eden Prairie MN 55415

Craig & Christine Wildfane  
18397 Nicklaus Way  
Eden Prairie MN 55347

James Vucinovich  
15252 Boulder Pt Rd  
Eden Prairie MN 55347

Peter & Kathy Throdahl  
5115 Greenwood Circle  
Greenwood MN 55331

Sue Tell  
Pat Marabella  
57 W Pleasant Lake Rd  
St Paul MN 55127

Karen & John Stringer  
18621 St Mellion Pl  
Eden Prairie MN 55347

James & Gwynne Steiner  
35 Gideons Pt Rd  
Tonka MN 55331

Vijay Sood  
19655 Waterford Pl  
Shorewood MN 55331

Carl Smith  
Brenda Culp  
11201 Fetterly Rd  
Minnetonka MN 55345

Jon & Jane Schwartzman  
11470 Cedar Pass  
Minnetonka MN 55305

Marc & Dianne Schwartz  
8644 Wynstone Pass  
Eden Prairie MN 55347

Mike & Barbara Schneider  
15027 Boulder Pt Rd  
Eden Prairie MN 55347

Joseph & Leslie Schneider  
1035 Holly Lane  
Chanhassen MN 55317

Roger & Elaine Sampson  
6710 Pt Lake Lucy  
Chanhassen MN 55317

Scott & Leah Rued  
9007 Avela Cove  
Eden Prairie MN 55347

Peter & Susan Rockers  
5975 Boulder Bridge Ln  
Shorewood MN 55331

Dale & Kathy Putrah  
22497 Dodge Court  
Faribault MN 55021

Ol & Sandra Pebley  
11436 Aspen Way  
Minnetonka MN 55305

Bill & Patty Naegele  
6697 Pt Lake Lucy  
Chanhassen MN 55317

Kent McNeley  
18074 Bearpath Trail  
Eden Prairie MN 55347

Joe & Florence McErlane  
5120 Ridge Rd  
Edina MN 55436

Ron & Janice Mason  
800 Pleasant View Rd  
Chanhassen MN 55317

Mary Jo Marchese  
2530 Abbey Hill  
Minnetonka MN 55305

Craig Manderly  
6670 Pt Lake Lucy  
Chanhassen MN 55347

Julie & David Luse  
15236 Boulder Pt Rd  
Eden Prairie MN 55347

Ronald & Virginia Lund  
9002 Riley Lake Rd  
Eden Prairie MN 55347

Jean & Kevin Krueger  
2804 Pine View Dr  
Prior Lake MN 55372

Thomas Kroschell  
8911 Victoria Dr  
Eden Prairie MN 55347

Gary & Deborah Kohler  
11554 Cedar Pass  
Minnetonka MN 55305

Jean Mason  
15387 Masons Pointe  
Eden Prairie MN 55347

Wesley Grootwassink  
Christina Grootwassink  
15412 Stanbury Curve  
Eden Prairie MN 55347

Robert Grootwassink  
Joan Grootwassink  
15382 Masons Pointe  
Eden Prairie MN 55347

John & Carol Goodman  
6686 Pointe Lake Lucy  
Chanhassen MN 55317

Howard and Heidi Gilbert  
232 Peninsula Rd  
Medicine Lake MN 55441

Mark & Pamela Friedland  
18832 Bearpath Trail  
Eden Prairie MN 55347

Brad & Nancy Fowler  
15220 Boulder Pt Rd  
Eden Prairie MN 55347

Katherine & Brent Erickson  
11590 Cedar Pass  
Minnetonka MN 55305

Jeff & Sandra Dezellar  
15524 Boulder Pt Rd  
Eden Prairie MN 55347

Mike & Virginia Cummings  
15348 Boulder Pt Rd  
Eden Prairie MN 55347

Jannan Carlson  
15330 Masons Pointe  
Eden Prairie MN 55347

Cadagan  
18530 Bearpath Tr  
Eden Prairie MN 55347

James & Carol Bracke  
15411 Masons Pt  
Eden Prairie MN 55347

Michael & Etta Barry  
111449 Aspen Way  
Minnetonka MN 55305

Kathryn Babich  
15440 Stanbury Curve  
Eden Prairie MN 55347

Scott & Carol Anderson  
15363 Masons Pt  
Eden Prairie MN 55347

Lawrence & Bonnie Anderson  
15268 Boulder Pt Rd  
Eden Prairie MN 55347